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PATENT APPLICATION No: 09/941,513
DOCKET NO: T9864

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: George D. Gates

SERIAL NO.: 09/941,513

FILED: August 28, 2001

FOR: OFFSET HOLDING DEVICE

DOCKET NO.: T9864

Rec'd. Ref: 07/09/2003 AKELLEY 0013074700
DA#220200 Name/Number:09941513
FC: 9204 8130.00 CR

**PETITION FOR REVIEW
OF REFUSAL TO
ACCORD FILING DATE
PER
MPEP 506.02**

CERTIFICATE OF DEPOSIT

DATE OF DEPOSIT: 12 May 2003
I hereby certify that this paper or fee is
being deposited with the United States
Postal Service under 37 C.F.R. § 1.8 on
the date indicated above and is addressed
to: Commissioner for Patents, Mail Stop
Petition, P. O. Box 1450, Alexandria, VA
22313-1450.

RECEIVED

MAY 19 2003

OFFICE OF PETITIONS

Deputy Commissioner for Patent Examination Policy
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Adjustment date: 07/09/2003 AKELLEY
05/16/2003 SISUANG1 00000041 09941513
-130.00 OP
01 FC:1460

This Petition is in response to the Notice of Incomplete Non-Provisional Application mailed April 11, 2003 for the application being deposited without drawings. Applicant respectfully requests that the application be accorded a filing date of August 28, 2001, because the application included 2 sheets of drawings (attached) when filed, as outlined below. The petition fee in accordance with 37 C.F.R. 1.17(h) is included.

On April 11, 2003, the Office of Initial Patent Examination Division mailed to Applicant a Notice of Incomplete Nonprovisional Patent Application and a Withdrawal of Previously Sent
05/16/2003 SISUANG1 00000041 09941513
01 FC:1460 130.00 OP

Notice of Filing Receipt, copies of both of which are attached hereto. The Notice was based on the OIPE's assertion that the application was deposited without drawings. For the reasons outlined below, Applicant respectfully petitions the Assistant Commissioner for Patents to set aside the Notice of April 11, 2003, and reinstate the originally assigned filing date of August 28, 2001. Applicant bases this petition on the fact that the application was complete as filed, and included two sheets of informal drawings pursuant to the requirements of 37 C.F.R. 1.53(b).

As evidence that suitable drawings were timely filed with the application, Applicant directs the Commissioner to the attached documents: a) copies of the two sheets of informal drawings submitted on August 28, 2001 (FIGs. 1-6); b) a copy of the Transmittal Sheet for the Application attesting that 2 sheets of drawings (informal) were included with the Application on August 28, 2001; and c) a copy of Applicant's representatives' in-house checklist indicating that complete drawings were submitted with the Application on August 28, 2001.

As illustrated, the attached documents indicate that Applicant duly submitted the required drawings on the filing date of August 28, 2001. In addition, Applicant's in-house checklist verifies that not only did the attorney responsible for filing the application (in this case "DRM," David R. McKinney) ensure that complete drawings were included in the Application, but that the attorney's assistant (in this case "KJ," Karen Jacobon) and one additional assistant (in this case "VM," Vanessa Montague) double- and triple-checked to ensure that the drawings were included.

Based on the above evidence, Applicant respectfully petitions the Commissioner to withdraw the Notice of Incomplete Nonprovisional Application and reinstate the correct filing

Assistant Commissioner for Patents
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date of August 28, 2001. Applicant submits that Applicant would be severely and irreparably prejudiced by losing its original filing date due to a mailing, handling or clerical error within the United States Patent and Trademark Office.

Enclosed is Check No. _____ for the amount of \$130.00 pursuant to 37 C.F.R. 1.17(h). In light of the fact that Applicant is entitled to its original filing date, Applicant respectfully requests that the petition fee be refunded after review of this Petition by the Commissioner. The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Petition to Deposit Account No. 20-0100.

If for any reason a telephone interview would be helpful, the Commissioner is strongly encouraged to telephone the undersigned so that any issues can be resolved as expeditiously as possible.

DATED this 12th day of MAY, 2003.

~~Respectfully submitted,~~

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